

House Bill 1319 (AS PASSED HOUSE AND SENATE)

By: Representatives Smith of the 70<sup>th</sup>, Knight of the 126<sup>th</sup>, Golick of the 34<sup>th</sup>, Rogers of the 26<sup>th</sup>, and McCall of the 30<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 23 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia Environmental Facilities Authority, so as to change certain provisions relating to definitions relative to said article; to change certain provisions relating to purpose, powers, and duties of the authority; to change certain provisions relating to loans to local governments and repayment thereof; to change certain provisions relating to lease agreements; to change certain provisions relating to review of contracts and agreements with local governments by the Environmental Protection Division of the Department of Natural Resources; to repeal certain provisions relating to transfer of employees of the former Office of Energy Resources; to change certain provisions relating to transfer of assets, funds, property, contracts, programs, obligations, and interests of the former Office of Energy Resources; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 23 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia Environmental Facilities Authority, is amended by striking paragraphs (5), (6), and (12) of Code Section 50-23-4, relating to definitions relative to said article, and inserting in lieu thereof the following:

"(5) 'Environmental facilities' means any projects, structures, and other real or personal property acquired, rehabilitated, constructed, or planned:

(A) For the purposes of supplying, distributing, and treating water and diverting, channeling, or controlling water flow and head including, but not limited to, surface or ground water, canals, reservoirs, channels, basins, dams, aqueducts, standpipes, penstocks, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, connections, water

1 meters, mechanical equipment, electric generating equipment, rights of flowage or  
 2 division and other plant structures, equipment, conveyances, real or personal property  
 3 or rights therein and appurtenances, furnishings, accessories, and devices thereto  
 4 necessary or useful and convenient for the collection, conveyance, distribution,  
 5 pumping, treatment, storing, or disposing of water;

6 (B) For the purposes of collecting, treating, or disposing of sewage including, but not  
 7 limited to, main, trunk, intercepting, connecting, lateral, outlet, or other sewers, outfall,  
 8 pumping stations, treatment and disposal plants, ground water recharge basins,  
 9 backflow prevention devices, sludge dewatering or disposal equipment and facilities,  
 10 clarifiers, filters, phosphorus removal equipment and other plants, soil absorption  
 11 systems, innovative systems or equipment, structures, equipment, vehicles,  
 12 conveyances, real or personal property or rights therein, and appurtenances thereto  
 13 necessary or useful and convenient for the collection, conveyance, pumping, treatment,  
 14 neutralization, storing, and disposing of sewage; ~~and~~

15 (C) For the purposes of collecting, treating, recycling, composting, or disposing of  
 16 solid waste, including, but not limited to, trucks, dumpsters, intermediate reception  
 17 stations or facilities, transfer stations, incinerators, shredders, treatment plants, landfills,  
 18 landfill equipment, barrels, binders, barges, alternative technologies and other plant  
 19 structures, equipment, conveyances, improvements, real or personal property or rights  
 20 therein, and appurtenances, furnishings, accessories, and devices thereto necessary or  
 21 useful and convenient for the collection, treatment, or disposal of solid waste; or

22 (D) For the purposes of carrying out a community land conservation project or a state  
 23 land conservation project pursuant to Chapter 22 of Title 36.

24 (6) 'Environmental services' means the provision, collectively or individually, of water  
 25 facilities, sewerage facilities, solid waste facilities, community land conservation projects  
 26 or state land conservation projects pursuant to Chapter 22 Title 36, or management  
 27 services."

28 "(12) 'Project' means the acquisition, construction, installation, modification, renovation,  
 29 repair, extension, renewal, replacement, or rehabilitation of land, interest in land,  
 30 buildings, structures, facilities, or other improvements and the acquisition, installation,  
 31 modification, renovation, repair, extension, renewal, replacement, rehabilitation, or  
 32 furnishing of fixtures, machinery, equipment, furniture, or other property of any nature  
 33 whatsoever used on, in, or in connection with any such land, interest in land, building,  
 34 structure, facility, or other improvement, all for the essential public purpose of providing  
 35 environmental facilities and services so as to meet public health and environmental  
 36 standards ~~and to~~ protect the state's valuable natural resources, or aid the development of

1 trade, commerce, industry, agriculture, and employment opportunities; or projects  
2 authorized by the Georgia Regional Transportation Authority created by Chapter 32 of  
3 this title as defined in such chapter, where the authority has been directed to issue revenue  
4 bonds, bonds, notes, or other obligations to finance such project or the cost of a project  
5 in whole or in part, provided that the authority's power with respect to such projects  
6 authorized by the Georgia Regional Transportation Authority shall be limited to providing  
7 such financing and related matters as authorized by the Georgia Regional Transportation  
8 Authority."

## 9 SECTION 2.

10 Said chapter is further amended in subsection (b) of Code Section 50-23-5, relating to  
11 purpose, powers, and duties of the authority, by adding new paragraphs to read as follows:

12 "(30.1) To exercise any powers necessary or convenient to conduct the activities and  
13 perform the acts that are contemplated for the authority by Chapter 22 of Title 36;  
14 (30.2) To fund, or partially fund, the Georgia Land Conservation Revolving Loan Fund  
15 established by Chapter 22 of Title 36;"

## 16 SECTION 3.

17 Said chapter is further amended by striking Code Section 50-23-6, relating to loans to local  
18 governments and repayment thereof, and inserting in lieu thereof the following:

19 "50-23-6.

20 ~~(a) The authority may make loans to a local government to pay all or any part of the cost~~  
21 ~~of a project. The authority may require the local government to issue bonds or revenue~~  
22 ~~bonds as evidence of such loans. The authority and a local government may enter into such~~  
23 ~~loan commitments and option agreements as may be determined appropriate by the~~  
24 ~~authority.~~

25 ~~(b) The authority may require as a condition of any loan to a local government that such~~  
26 ~~local government shall perform any or all of the following:~~

27 ~~(1) In the case of loans for a sewerage facility, establish and collect sewer rents, rates,~~  
28 ~~fees, and charges so as to produce revenues sufficient to pay all or a specified portion of:~~

29 ~~(A) Costs of operation, maintenance, replacement, renewal, and repairs; and~~

30 ~~(B) Outstanding indebtedness incurred for the purposes of such sewerage facility,~~  
31 ~~including the principal of and interest on the bonds, revenue bonds, notes, or other~~  
32 ~~obligations issued by the local government, as the same shall become due and payable,~~  
33 ~~and to create and maintain any required reserves;~~

1 ~~(2) In the case of loans for a water facility, establish and collect rents, rates, fees, and~~  
2 ~~charges so as to produce revenues sufficient to pay all or a specified portion of:~~

3 ~~(A) Costs of operation, maintenance, renewal, replacement, and repairs of the water~~  
4 ~~facility of such local government; and~~

5 ~~(B) Outstanding indebtedness incurred for the purposes of such water facility,~~  
6 ~~including the principal of and interest on the bonds, revenue bonds, notes, or other~~  
7 ~~obligations issued by the local government, as the same shall become due and payable,~~  
8 ~~and to create and maintain any required reserves;~~

9 ~~(3) In the case of loans for a solid waste facility, establish and collect rents, rates, fees,~~  
10 ~~and charges so as to produce revenues sufficient to pay all or a specified portion of:~~

11 ~~(A) Costs of operation, maintenance, renewal, replacement, and repairs of the solid~~  
12 ~~waste facility of such local government; and~~

13 ~~(B) Outstanding indebtedness incurred for the purposes of such solid waste facility,~~  
14 ~~including the principal of and interest on the bonds, revenue bonds, notes, or other~~  
15 ~~obligations issued by the local government, as the same shall become due and payable,~~  
16 ~~and to create and maintain any required reserves;~~

17 ~~(4) Create and maintain a special fund or funds, as additional security for the payment~~  
18 ~~of the principal of such revenue bonds and the interest thereon and any other amounts~~  
19 ~~becoming due under any agreement, entered into in connection therewith and for the~~  
20 ~~deposit therein of such revenues as shall be sufficient to make such payment as the same~~  
21 ~~shall become due and payable;~~

22 ~~(5) Create and maintain such other special funds as may be required by the authority; and~~

23 ~~(6) Perform such other acts, including the conveyance of real and personal property~~  
24 ~~together with all right, title, or interest therein to the authority, or take other actions as~~  
25 ~~may be deemed necessary or desirable by the authority to secure the payment of the~~  
26 ~~principal of and interest on such bonds, revenue bonds, notes, or other obligations and to~~  
27 ~~provide for the remedies of the authority in the event of any default by such local~~  
28 ~~government in such payment.~~

29 ~~(c) All local governments issuing and selling bonds, revenue bonds, notes, or other~~  
30 ~~obligations to the authority are authorized to perform such acts, take such action, adopt~~  
31 ~~such proceedings, and to make and carry out such contracts with the authority as may be~~  
32 ~~contemplated by this article.~~

33 ~~(d) In connection with the making of any loan authorized by this article, the authority may~~  
34 ~~fix and collect such fees and charges including, but not limited to, reimbursement of all~~  
35 ~~costs of financing by the authority, as the authority shall determine to be reasonable.~~

Neither the Public Service Commission nor any local government or state agency shall have jurisdiction over the authority's power over the regulation of such fees or charges.

(a) The authority may make grants to governmental entities as provided for in Chapter 22 of Title 36 and as otherwise provided by law.

(b) The authority may make loans to a local government to pay all or any part of the cost of a project. The authority may require the local government to issue bonds or revenue bonds as evidence of such loans. The authority and a local government may enter into such loan commitments and option agreements as may be determined appropriate by the authority.

(c) The authority may require as a condition of any loan to a local government that such local government shall perform any or all of the following:

(1) As appropriate and permitted by law, establish and collect taxes, rents, rates, fees, and charges so as to produce revenues sufficient to pay all or a specified portion of:

(A) Costs of operation, maintenance, replacement, renewal, and repairs; and

(B) Outstanding indebtedness incurred for the purposes of such project, including the principal of and interest on the bonds, revenue bonds, notes, or other obligations issued by the local government, as the same shall become due and payable, and to create and maintain any required reserves;

(2) Create and maintain a special fund or funds as additional security for the payment of the principal revenue bonds and the interest thereon and any other amounts becoming due under any agreement entered into in connection with such bonds and for the deposit of such revenues as shall be sufficient to make such payment as the same shall become due and payable;

(3) Create and maintain such other special funds as may be required by the authority; and

(4) Such other acts, including the conveyance of real and personal property together with all right, title, or interest therein to the authority, as may be deemed necessary or desirable by the authority to secure the payment of the principal of and interest on bonds, revenue bonds, notes, or other obligations and to provide for the remedies of the authority in the event of any default by such local government in such payment.

(d) All local governments issuing and selling bonds, revenue bonds, notes, or other obligations to the authority are authorized to perform such acts, take such action, adopt such proceedings, and make and carry out such contracts with the authority as may be contemplated by this article.

(e) In connection with the making of any loan authorized by this article, the authority may fix and collect such fees and charges, including but not limited to reimbursement of all costs of financing by the authority, as the authority shall determine to be reasonable.

Neither the Public Service Commission nor any local government or state agency shall have jurisdiction over the authority's power over the regulation of such fees or charges.

(f) A mutual undertaking by a local government to borrow and an undertaking by the authority to lend funds from and to each other for projects shall be a provision for services and an activity within the meaning of Article IX, Section III, Paragraph I(a) of the Constitution."

#### SECTION 4.

Said chapter is further amended by striking subsection (f) of Code Section 50-23-7, relating to lease agreements, and inserting in lieu thereof the following:

"(f) Any lease agreement directly between the state or authority and a local government may contain provisions requiring the local government to perform any or all of the following:

~~(1) In the case of a sewerage facility, to establish and collect sewer rents, rates, fees, and charges so as to produce revenues sufficient to pay all or a specified portion of:~~

~~(A) The costs of operation, maintenance, renewal, replacement, and repairs of the sewerage facility of such local government; and~~

~~(B) Outstanding bonds, revenue bonds, notes, or other obligations incurred for the purposes of such sewerage facility and to provide for the payment of all amounts as they shall become due and payable under the terms of such lease agreement, including amounts for the creation and maintenance of any required reserves;~~

~~(2) In the case of a water facility, to establish and collect rents, rates, fees, and charges so as to produce revenues sufficient to pay all or a specified portion of:~~

~~(A) The costs of operation, maintenance, renewal, and repairs of the water facility of such local government; and~~

~~(B) Outstanding bonds, revenue bonds, notes, or other obligations incurred for the purposes of such water facility and to provide for the payment of all amounts as they shall become due and payable under the terms of such lease agreement, including amounts for the creation and maintenance of any required reserves;~~

~~(3) In the case of a solid waste facility, to establish and collect rents, rates, fees, and charges so as to produce revenues sufficient to pay all or a specified portion of:~~

~~(A) The costs of operation, maintenance, renewal, and repairs of the water facility of such local government; and~~

~~(B) Outstanding bonds, revenue bonds, notes, or other obligations incurred for the purposes of such solid waste facility and to provide for the payment of all amounts as~~

1 ~~they shall become due and payable under the terms of such lease agreement, including~~  
2 ~~amounts for the creation and maintenance of any required reserves;~~

3 ~~(4) To create and maintain reasonable reserves or other special funds;~~

4 ~~(5) To create and maintain a special fund or funds as additional security for the punctual~~  
5 ~~payment of any rentals due under such lease agreement and for the deposit therein of such~~  
6 ~~revenues as shall be sufficient to pay said lease rentals and any other amounts becoming~~  
7 ~~due under such lease agreements as the same shall become due and payable; or~~

8 ~~(6) To perform such other acts and take such other action as may be deemed necessary~~  
9 ~~and desirable by the authority to secure the complete and punctual performance by such~~  
10 ~~local government of such lease agreements and to provide for the remedies of the~~  
11 ~~authority in the event of a default by such local government in such payment.~~

12 (1) As appropriate and otherwise permitted by law, establish and collect taxes, rents,  
13 rates, fees, and charges so as to produce revenues sufficient to pay all or a specified  
14 portion of:

15 (A) The costs of operation, maintenance, renewal, replacement, and repairs of any  
16 project of such local government; and

17 (B) Outstanding bonds, revenue bonds, notes, or other obligations incurred for the  
18 purposes of such project and to provide for the payment of all amounts as they shall  
19 become due and payable under the terms of such lease agreement, including amounts  
20 for the creation and maintenance of any required reserves;

21 (2) Create and maintain reasonable reserves or other special funds;

22 (3) Create and maintain a special fund or funds as additional security for the punctual  
23 payment of any rentals due under such lease agreement and for the deposit of such  
24 revenues as shall be sufficient to pay rentals and any other amounts becoming due under  
25 such lease agreements as the same shall become due and payable; and

26 (4) Such other acts and take such other action as may be deemed necessary and desirable  
27 by the authority to secure the complete and punctual performance by such local  
28 government of such lease agreements and to provide for the remedies of the authority in  
29 the event of a default by such local government in such payment."

## 30 **SECTION 5.**

31 Said chapter is further amended by striking Code Section 50-23-9, relating to review of  
32 contracts and agreements with local governments by the Environmental Protection Division  
33 of the Department of Natural Resources, and inserting in lieu thereof the following:

34 "50-23-9.

1 (a) The authority shall not enter into any contract or agreement with any local government  
2 with respect to the financing of any environmental facility pursuant to this article, unless  
3 the director of the Environmental Protection Division of the Department of Natural  
4 Resources shall have completed all existing statutory reviews and approvals with respect  
5 to such project. Nothing in this article shall be construed to diminish the full authority and  
6 responsibility of the director of the Environmental Protection Division for existing statutory  
7 reviews and approvals.

8 (b) The authority shall not enter into any contract or agreement with any local government  
9 or the Department of Natural Resources with respect to the financing, by loan or grant, of  
10 any community land conservation project or state land conservation project pursuant to  
11 Chapter 22 of Title 36 unless the Georgia Land Conservation Council has approved the  
12 community land conservation project or state land conservation project and the chairperson  
13 has directed the authority to execute the approval decision of the Georgia Land  
14 Conservation Council. Nothing in this article shall be construed to diminish the full  
15 authority and responsibility of the Georgia Land Conservation Council's existing statutory  
16 reviews and approvals."

#### 17 **SECTION 6.**

18 Said chapter is further amended by repealing and reserving Code Section 50-23-33, relating  
19 to transfer of employees of the former Office of Energy Resources.

#### 20 **SECTION 7.**

21 Said chapter is further amended by repealing and reserving Code Section 50-23-34, relating  
22 to transfer of assets, funds, property, contracts, programs, obligations, and interests of the  
23 former Office of Energy Resources.

#### 24 **SECTION 8.**

25 All laws and parts of laws in conflict with this Act are repealed.